

**MINUTES OF THE MEETING OF THE CITY COUNCIL**

Wichita, Kansas, August 19, 2003  
Tuesday, 9:06 A.M.

The City Council met in regular session with Mayor Mayans in the Chair. Council Members Brewer, Fearey, Gray, Lambke, Martz, Schlapp present.

Chris Cherches, City Manager; Gary Rebenstorf, Director of Law; Karen Schofield, Deputy City Clerk; present.

Rev. Douglas Luginbill, Hope Mennonite Church, gave the invocation.

The pledge of allegiance to the flag was participated in by the Council Members, staff, and guests.

(The Minutes of August 12, 2003, were considered later in the Council Meeting with Council Member Schlapp away from the Bench.)

The Minutes of the regular meeting of August 12, 2003 were approved 6 to 0. (Schlapp absent)

**UNFINISHED BUSINESS****BOARDS REQ.****RESIDENCY REQUIREMENTS FOR BOARDS AND COMMISSIONS.**

(Continued from July 8, 2003)

Chris Cherches

City Manager reviewed the Item.

Agenda Report No. 03-0732A

On July 8, 2003, the City Council considered options for changing the residency requirements for the Mechanical, Plumbers, Electrical Board and the Codes of Standards and Appeals. The residency requirements for all City Boards and Commissions are established by ordinance (either general ordinance in 2.12.010(1) or specific ordinances pertaining to some individual boards). The basic requirement is that members of Boards and Commissions must be residents of the City of Wichita.

Residency requirements may be changed in the same manner, i.e. by a simple ordinance except for three boards: the SSMID Advisory Board; the Police and Fire Retirement Board; and the Metropolitan Area Planning Commission. These boards require charter ordinances or state legislation to change membership.

The membership of technical boards (Plumbers/Gas Fitters, Electrical Appeals, Boards of Appeals of Air Conditioning Refrigeration, Heating and Boilers and the Board of Code Standards and Appeals) was a focus of discussion at the July 8, 2003, Council Meeting. These boards require the need to have qualified members that work in the trades and understand the knowledge of the technical nature of the work and the codes that govern such work. Eliminating the restrictions on members to these advisory technical boards may make it easier to fill these Boards/Commissions with the best qualified individuals. However, placing individuals from outside Wichita who may (or may not) be familiar with the Codes enforced by the City may be seen as an issue by local licensed contractors.

The City Council members considered four options associated with residency requirements. They included:

1. Leave the residency requirement on all Boards/Commissions;
2. Modify the residency policy for all Boards/Commissions on the same basis as City personnel (to live within 30-minute lawful driving distance).

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 31

3. Abolish the residency requirement for advisory Boards/Commissions but limit the number of non-residents to no more than 25% (rounded) members (i.e. 2 for seven member Boards/Commissions and 4 for 15 member Boards/Commissions).
4. Modify the residency policy for only Technical Boards as listed above.

The Council's action was to defer this matter to the District Advisory Boards (DABs) for further citizen input.

The District Advisory Boards were presented with information regarding a City Council request to present options for changing the Wichita residency requirement for four technical boards including the Mechanical Board, Plumbers Board, Electrical Board, and Code of Standards and Appeals Board. Consideration for the change was requested due to the need to attract qualified people with a City license in the trade who understand the technical nature of the work. It was suggested that consideration be given to the requirement governing City employees to live within a 30-minute lawful drive from Wichita. A summary of District Advisory Board actions follows:

DAB I: Voted 3-3 on this issue as a recommendation was not reached.

DAB II: Voted 6-2 that the City Council modify the residency policy for boards allowing a limited number (25% rounded) of nonresidents to serve on all City boards.

DAB III: Voted 9-0 to retain the existing residency requirement for Commission and technical board members

DAB IV: Voted to approve the change for only the technical boards identified.

DAB V: Voted 4-2 that all City advisory board members be City residents and the identified trade boards should be restricted to no more than two (2) non-residents of Wichita.

DAB VI: Voted 11-0 to leave the ordinance as is regarding residency requirements.

The City has the authority to change the residency requirement for the technical boards (and, for many of the non-statutory advisory boards/commissions) as it sees fit.

- Motion-- Gray moved that the residency requirements pertain to only the four Trade Boards (Plumbers Board, Electrical Board, Mechanical Board, and the Board of Code Appeals); no outside-the-city-limits members more than two less than a quorum be allowed on a Board; and any Board member residing outside the City maintain a certificate with the City of Wichita pertaining to their trade whether it be a journeyman or masters to fulfill the requirements of the board itself.
- Mayor Mayans Mayor Mayans inquired if anyone wished to speak.
- Ray Frederick Mechanical Board of Appeals spoke in favor of the recommendations and said the boards and associations that have also expressed a desire to see a change as it relates to these four trade boards are: Kansas Cooling Contractors Association, Mechanical Trades Advisory Council, Sheet Metal Group, Design Trades, Plumbers Association of Central Kansas, Local Plumbing Association, Pipe fitters Union Local 441, Wichita Area Builders Association, Mechanical Board, Wichita Plumbing Board, and Code Standards and Electrical Board.
- Council Member Lambke Council Member Lambke said that he would like to reaffirm his opposition to this change. Several of the DAB Boards voted unanimously to leave the present ordinance in effect. If all the DAB members votes are totaled, there were nineteen in favor of the change and twenty-seven opposed to a change. Those who chose to live outside of the City knew they would not be eligible for the Boards.
- Council Member Fearey Council Member Fearey said DAB VI voted 11 to 0 to keep the Ordinance as is. DAB VI expressed concerns regarding putting people on the Boards who cannot vote for anyone who sits at the Council bench.
- Council Member Schlapp Council Member Schlapp said DAB II felt the information from those wanting to be on the Board was important for the betterment of the city.
- Council Member Gray Council Member Gray said more of the DABs supported this measure than opposed it. As far as individuals not being able to vote for the members sitting at this bench because they reside outside of the City the City of Wichita itself maintains a thirty minute rule for it's employees. By allowing these

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 32

changes we allow ourselves to draw talent from a much larger pool and get a much broader spectrum of information then we would with just confining it to the City. There are safeguards built into his motion to only allow a small portion of the membership to reside outside of the City and that portion may not even have voting authority to override the rest of the board.

Motion--carried

Motion carried 5 to 2. Fearey, Lambke - No.

CON2003-15

**CONDITIONAL USE FOR WRECKAGE/SALVAGE YARD, ON PROPERTY ZONED "GI" GENERAL INDUSTRIAL, GENERALLY LOCATED NORTH OF 21<sup>ST</sup> STREET NORTH AND EAST OF BROADWAY – 700 EAST 21<sup>ST</sup> STREET NORTH. (DISTRICT VI)**

John Schlegel

Planning Director reviewed item.

Agenda Report No. 03-0178C

The applicant is requesting a Conditional Use amendment to permit the expansion of an existing wrecking/salvage yard permitted by CU-431, which was approved by the MAPC on May 15, 1997, for a 1.7 acre unplatted tract located north of 21st Street North and east of Broadway at 700 E. 21st St. N. The applicant is requesting to expand the existing wrecking/salvage yard to the extent that the area approved for the wrecking/salvage yard would increase from 1.7 acres to 45.43 acres. The subject property is zoned "GI" General Industrial, and a wrecking/salvage yard may be permitted by a Conditional Use in the "GI" district.

The surrounding area is characterized by heavy industry, with many resource-based industrial uses in the immediate vicinity. All of the properties surrounding the subject property are zoned "GI" General Industrial. Major uses in the vicinity of the subject property include: petroleum storage and refining and wrecking/salvage to the east; grain storage and wrecking/salvage to the north; meat product processing to the west; and wrecking/salvage to the south. The other existing wrecking/salvage operations in the vicinity pre-date the Conditional Use requirement for wrecking/salvage and are non-conforming uses.

The existing wrecking/salvage yard on the subject property has expanded in violation of the zoning regulations. The existing wrecking/salvage yard presently occupies approximately 10 acres of the subject property rather than the 1.7 acres permitted by CU-431, thus necessitating the application for the Conditional Use amendment. The applicant's site plan shows the current extent of the wrecking/salvage yard, which is located south of the southern-most "Phase Line." The site plan shows that the applicant proposes three additional expansion phases, for a total wrecking/salvage operation of 45.43 acres.

The applicant submitted a letter dated May 12, 2003, in which the applicant enumerates the proposed conditions under which the wrecking/salvage yard would operate. For the most part, planning staff finds the proposed conditions acceptable and is recommending only minor wording changes to the conditions so that the wording of the conditions is consistent with other recently approved wrecking/salvage yards. However, planning staff does not support three aspects of the applicant's proposal.

First, the number and scale of less-desirable, resource-based industrial uses in the vicinity already presents significant obstacles to the development or redevelopment property in the area. Planning staff is concerned that if the entire subject property were to become a wrecking/salvage yard, the character of the area would further lean toward exclusive use for wrecking/salvage, which would even further hinder the development or redevelopment of adjacent properties with more desirable, employment based industrial uses. Wrecking/salvage uses are generally considered an under utilization land because the property does not contain any building improvements or generate significant employment numbers to further the development and quality of life in the community. Also, such uses tend to cause environmental problems in an area where environmental problems already exist and a major environmental clean-up effort is under way. Therefore, planning staff recommends that the Conditional Use amendment permit expansion of the wrecking/salvage yard only to the area currently used and approximately the eastern one-third of the applicant's proposed first phase.

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 33

The second aspect of the applicant's proposal not supported by planning staff is the applicant's proposal to provide a screening fence only along the south end of the wrecking/salvage yard. Section III-D.6.e. (3) of the Unified Zoning Code (UZC) requires that a wrecking/salvage yard be entirely enclosed by an eight-foot high solid screening fence, even when adjacent to non-residential uses. The nature of a wrecking/salvage operation is such that it can have a significant negative impact on even commercial/industrial uses and, therefore, the UZC requires screening of a wrecking/salvage yard from all uses. Since the UZC requirement for wrecking/salvage yard screening is a Supplementary Use Regulation, the requirement can be waived by the City Council upon receiving a favorable recommendation from the MAPC. Planning staff does not recommend waiving the screening requirement.

The third aspect of the applicant's proposal not supported by planning staff is the applicant's proposal to display salvaged vehicle parts so that they are visible above the screening fence from 21st Street North. The current Conditional Use prohibits this practice, as does the UZC; however, the applicant currently displays salvaged vehicle parts in violation of the zoning regulations. As with the screening fence, only the City Council can permit the applicant's proposed display of salvaged vehicle parts, but planning staff does not recommended granting the requested waiver.

No citizens either in favor or in opposition to the request that appeared at the hearings on the request. At the DAB 6 hearing on June 2, 2003, the DAB voted (7-4) to recommend approval for an area larger than recommended by staff but less than requested by the applicant subject to platting within one year and subject to the conditions recommended by staff except that a screening fence be required only on the south and west sides of the property. At the MAPC hearing on June 5, 2003, the MAPC voted (12-0) to recommend approval for the entire application area subject to platting within one year and subject to conditions recommended by staff, except that a screening fence not be required on a portion of the east side. The conditions of approval recommended by the MAPC are:

1. The Conditional Use shall authorize the operation of an iron, metal, and auto wrecking/salvage yard. In no event shall the storage or bailing of waste, scrap paper, rags or junk (excluding metal) be permitted in conjunction with this use.
2. Within 30 days of approval of the Conditional Use by the governing body, all portions of the subject property currently containing wrecking/salvage shall be entirely enclosed by a fence. The fence shall be a white metal panel screening fence not less than 8 feet in height and having cracks and openings not in excess of five percent of the area of such fence, except for along the eastern most property line adjacent to the drainage channel and railroad tracks and south of the excluded area shown on the approved site plan where a minimum 6-foot high chain link security fence shall be permitted. Prior to wrecking/salvage operations expanding onto any portion of the subject property permitted for such use, said fence shall be erected to entirely enclose the expanded area. Access gates shall be permitted in the fence, but all gates shall remain closed unless in use. No wrecked vehicles or salvage, including vehicle parts or accessories, shall be permitted for screening purposes or located on or attached to the fence.
3. The height of wrecked vehicles or salvage, including vehicle parts or accessories, shall not exceed the height of the screening fence and shall not be visible from ground-level view from any public right-of-way or adjoining properties.
4. Salvaged materials are to be piled and stored in an orderly manner such as would be provided by racks or bins. In order to reduce rodent potential, racks and bins shall be elevated so there is at least 18 inches between the bottom of the rack or bin and the ground. Racks or bins shall be a minimum of 48 inches away from any wall, fence, or other rack or bin. Non-rackable material shall be stored with an exposed perimeter or in a manner specified by the Environmental Health Department to prevent rodent harborage and breeding.
5. The applicant shall maintain at all times an active program for the eradication and control of rodents.

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 34

6. Weeds shall be controlled within the salvage area and adjacent to and along the outside perimeter of the screening fence.
7. Any locking devices on entrance gates shall meet Fire Department requirements. Access to and within the wrecking/salvage yard, shall be provided by fire lanes per the direction and approval of the Fire Department.
8. Access to the subject property shall be provided for an environmental investigation. Expansion of the wrecking/salvage operation beyond the current limits of the operation shall not occur for a period not to exceed six months from the date of approval of the Conditional Use by the MAPC or governing body, as applicable, to allow time to complete said environmental investigation. The applicant shall permit on-going inspections of the site for soil and groundwater contaminants by the Environmental Health Department and other applicable governmental agencies. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells or permit geo probes on the property to monitor the quality of groundwater and shall pay the cost of an annual groundwater test for contaminants as designated by the Environmental Health Department.
9. Notification shall be given to the Environmental Health Department of any on-site storage of fuels, oils, chemicals, or hazardous wastes or materials. A disposal plan for fuels, oils, chemicals, or hazardous wastes or materials shall be place on file with the Environmental Health Department. All manifests for the disposal of fuels, oils, chemicals, or hazardous wastes or materials must be kept on file at the site and available for review by the Environmental Health Department.
10. The applicant shall implement a drainage plan approved through the platting process that minimizes non-point source contamination of surface and ground water.
11. The applicant shall obtain and maintain all applicable local, state, and federal permits necessary for the operation of a wrecking/salvage yard.
12. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

Since the MAPC recommended modifying the Supplementary Use Regulation of the Unified Zoning Code that requires a screening fence on all sides of a wrecking/salvage yard, City Council consideration of the request is required, as only the City Council can waive or modify a Supplementary Use Regulation through the approval of a Conditional Use.

On July 1, 2003, the City Council considered the Conditional Use request and voted (6-0) to return the request to the MAPC for reconsideration. On July 10, 2003, the MAPC voted (11-1-1) to recommend approval of the request subject to the same conditions recommended on June 5, 2003.

On August 5, 2003, the City Council deferred one week to allow Staff time to check with other government entities regarding possible bonding requirements for remedial conditions in case of contamination.

On August 12, 2003, the City Council deferred the Item one week to allow Staff additional time to answer questions.

John Schlegel

Director of Planning said the following Items are recommended by Staff:

- 1) That the request be APPROVED, based upon the findings contained in the staff report and subject to platting within one year and with the fourteen conditions originally submitted by Planning.
  - 2) That the additional condition requiring a financial guarantee to insure clean-up of any contamination that might be caused by the salvage yard be included in the motion for approval.
- Although the City does require financial guarantees on a variety of matters, it has not done so previously for this type of use. This condition is considered reasonable due to the extent and nature of contamination that is known to exist on this and surrounding properties. Adding this condition would set a precedence that we would have to be careful to maintain. Because it is not possible to determine

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 35

the exact amount of the guarantee without getting additional information from the salvage yard operator, the condition is worded to allow staff to work with the applicant on the form and amount of the guarantee.

- Mayor Mayans Mayor Mayans inquired if anyone wished to speak and no one appeared.
- Motion-- Fearey moved that the request be approved based upon the findings contained in the staff report and subject to platting within one-year and with the fourteen conditions originally submitted by planning. These conditions and staff's findings were distributed to the council prior to the August 5<sup>th</sup> meeting. They reflect the recommendations of the DAB; and the additional condition requiring a financial guarantee of any cleanup of any contamination that might be caused by the salvage yard be included in the motion for approval, with the stipulation that staff bring the option back to the council if the bond amount is unreasonable.
- Council Member Fearey Council Member Fearey explained that, regarding the bond amount, Staff will work with the applicant and, if the applicant thinks the required amount is unreasonable, the matter can be returned to the City Council.
- John Schlegel Director of Planning explained that the closest related type of use for which the City has required bonding was with an agreement with Cornejo for the construction materials recycling yard.
- Mayor Mayans Mayor Mayans said that they employee about forty people and this may cause a hardship to have this bonding of financial security.
- Council Member Fearey Member Fearey explained that one reason the bond is requested is because the business is very near a plume of pollution and, as the City found with the Gilbert and Mosley situation, if this business were to not keep abiding by the rules, or if another owner were to take over the salvage yard and not abide by the rules and started polluting, then the city and the tax payers are going to be left with the burden of additional cleanup of the groundwater.
- Council Member Martz Council Member Martz explained that he started the question and concern about bonding. The City has been required to spend millions of dollars on the Gilbert and Mosley cleanup. The potential of adding contamination to a pollution site is present. The concern is that some kind of bonding be present to protect the City, should there be an additional contamination added to an existing plume and that there be finances available.
- Council Member Gray Council Member Gray responded that contamination is not on the current site. What makes this different than anywhere else in the City of Wichita, whether it be a half a mile from the Gilbert and Mosley site or whether it be 10 miles from there, is it the City's responsibility to clean it up? If that is the case, do we not need to put this on every industry that operates within the City of Wichita that has the potential of contaminating the groundwater. Personally does not feel that because it's near the Gilbert and Mosley site, requires any greater need for it then it would anywhere else in the City of Wichita. If we are going to generate a whole new era of mandating that all the companies that could possibly do groundwater contamination have bonding. That may make it more detrimental to bringing businesses in.
- Council Member Martz Council Member Martz responded that it is very close to the proximity of Gilbert and Mosley and the Gilbert and Mosley plume is large, several miles around. As far as other businesses in the future, the City should look at each as the situation arises.
- Council Member Lambke Council Member Lambke said the applicant had a permit for 1.7 acres and is presently using 10 acres - in violation of the original permit, and he does not feel comfortable in sanctioning a business that violates its agreement
- Mayor Mayans Mayor Mayans said that the owners had applied nine-months ago for this conditional use.
- Council Member Fearey Council Member Fearey said DAB VI had the same concerns as Council Member Lambke. They were actually asking for a larger area and the DAB recommended a lesser area, which is reflected in what the City Council is voting on.

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 36

- Jack Brown      Environmental Health Director, responding to a question, said there are six monitor wells on the site and four of those wells were installed many years ago when the investigation was first taking place with the Wichita North Industrial District. Two new monitoring wells have been installed on this particular property within the last three or four years. There is contamination on the site now. There is a source of contamination somewhere in the proximity. All activities should be monitored of any facility on the site.
- The City has seen too many sites in the past that have become orphan sites and the larger community has to share in the cost of the cleanup of that particular piece of property because it is no longer a buyable entity to ask for recovery of cost.
- Jack Brown      Environmental Health Director, answering a question, explained that the elevation of the groundwater is a little bit higher in this area because of the surface elevation. Most of that area is overlaying with clay soils so they are tighter soils than would be found further south.
- Council Member Gray      Council Member Gray said that if this business has been around for a number of years and there has been no proven contamination due to this business. There is no inclination that the soil in this area is more likely to be more easily contaminated than any other spot in the City of Wichita, and he does not support requiring bonding of the facility as this time unless the City is going to propose this on every other business in the City.
- Mayor Mayans      Mayor Mayans stated that the MAPC recommended restrictions but no bonding, the DAB recommended restrictions but no bonding, and the staff recommended restrictions but no bonding.
- Jack Brown      Environmental Health Director said that the applicant, at this point, would just like to know the amount of financial guarantee required.
- Council Member Fearey      Council Member Fearey explained that is why the motion includes that staff can bring the matter back to the City Council. This seems like a no-lose situation. If there is a way to protect the future of the City's groundwater and tax money and the applicant realizes what is being done and is willing to work with Staff, this just seems to be a win-win situation.
- Mayor Mayans      Mayor Mayans said his only concern is about that particular part of the motion regarding sending the matter to staff again for research which causes additional delay for the conditional permit that has already taken nine-months.
- Council Member Gray      Council Member Gray spoke against setting a precedent for future businesses wanting to start in the City. There is a lot of disdain right now that it is difficult for small businesses to start anywhere in the country because corporate America is taking over and buying up all of the small businesses. If the City puts more restrictions it is going to make it more difficult for the small "mom and pop" shops who have convenient stores to open up around the City because they may not be able to afford an extra hundred thousand dollars a year of bonding necessary to cover potential water contamination.
- Council Member Martz      Council Member Martz said the reason for a bond is that should a potential additional contamination happen, the City would not have to spend thousands of dollars in legal fees for remediation. The bond is simply there. The City is not trying to do away with businesses. The City is trying to encourage businesses.
- Council Member Fearey      Council Member Fearey said DAB VI was extremely concerned about this whole site, especially the people who have a strong interest in the 21<sup>st</sup> street revitalization effort. The whole area between Broadway and I-35 is looked at very negatively and the DAB was very reluctant to add anything to make the area even harder to redevelop.
- Motion--failed      Motion failed 4 to 3. Brewer, Gray, Schlapp, Mayans - NO.
- Motion--      Mayans moved that the Conditional Use, subject to platting within one year and to the recommended conditions, be approved; and that the Resolution be adopted. Motion carried 4-3. Fearey,

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 37

--carried

Lambke, Martz - NO.

## RESOLUTION NO. 03-452

A Resolution authorizing a Conditional Use for wrecking/salvage yard on 45.43 acres zoned "GI" General Industrial, located north of 21st Street North and east of Broadway in the City of Wichita, Kansas, under the authority granted by the Wichita, Sedgwick County Unified Zoning Code, Section V-D, as adopted by Ordinance No. 44-975, as amended, presented. Mayans moved that the Resolution be adopted. Motion carried 4 to 3. Yeas: Brewer, Gray, Schlapp, Mayans. Nays: Fearey, Lambke, Martz.

## NEW BUSINESS

### ANIMAL CONTROL    AMENDMENTS TO ANIMAL CONTROL ORDINANCE.

Jack Brown

Environmental Health Director reviewed the item.

#### Agenda Report 03-0868

Based on citizen and Council member requests, staff developed code revisions to limit tethering of dogs and place restrictions on specific breeds considered to be inherently dangerous. Tethering of dogs is considered inhumane by local and national animal welfare authorities, and is cited by animal behaviorists as a factor in increased aggression. While restraining the tethered animal, the practice leaves the animal accessible to other animals, children, or other individuals unaware of its presence. Breed specific prohibitions grew out of citizen concerns with dog fighting, bites by the breeds in question, and the potential for serious injury by these breeds.

Staff presented Animal Control code changes to all of the Council District Advisory Boards regarding an anti-tethering proposal and breed specific language to declare Pit Bulls and Rottweilers inherently vicious.

There was general support from the District Advisory Boards for the anti-tethering proposal, and based on comments received it determined that the ordinance amendment allow tethering for three one-hour periods daily, with such periods separated by three hours time.

During this process there was found to be a lack of support from the District Advisory Boards and the public who addressed the issue if breed specific requirements. There was, however, strong support for strengthening the restrictions proposed for dogs determined vicious under current administrative procedures. Staff has revised the proposed code to delete definition of specific breeds as inherently dangerous, while retaining strengthened requirements for the control of specific animals deemed vicious under existing standards. These requirements include registration of dangerous dogs, implantation of microchips for identification, muzzling during transportation, and acquisition of liability insurance.

New code provisions will be enforced by existing staff. Registration fees for dangerous dogs will generate \$100 per animal declared vicious.

The Department of Law has approved the revised code as to form, and drafted the implementing ordinance.

Mayor Mayans

Mayor Mayans inquired if there were anyone in the audience that wished to speak .

The following Persons spoke against the Item:

Mindy Markley

Unidentified female



# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 38

The following persons spoke in favor of the recommended changes:

Al Fleming, US Postal Service  
Dr. Bill Skaer  
Kim Jansen, Ks. Humane Society  
Unidentified female  
Marilyn Johnson, landlord  
Marilyn Snyder  
Ellen Corner, Pals Animal Rescue  
Sara Steele

- Council Member Gray Council Member Gray said he is a dog owner and has a pit bull that stays out on his construction site. This dog stays on a chain because it can chew through chainlink and cedar fences. He plays with his dog every day when he goes to work and the dog is very well-tempered. People put dogs in dog runs and forget about them. It's not the fact that dogs are tethered - it is the fact that they are not treated properly.
- Council Member Brewer Council Member Brewer said he grew up in a neighborhood where he has seen a lot of dog fighting. Those individuals that tie dogs up are not tying them up by small cable with a collar. These dogs are tied up with log chains for the sole purpose of preparing them to fight. It builds up muscle. It is cruel and inhumane. Complaints are received on a regular basis regarding the dogs getting loose and the postal service refusing to deliver mail.
- Motion -- carried Brewer moved that the Ordinance be placed on first reading. Motion carried 6 to 1. Gray - NO.

## ORDINANCE

An Ordinance amending Sections 6.04.010, 6.04.040, 6.04.046, 6.04.047, 6.04.048 of the City of Wichita, Kansas pertaining to animal control and protection, introduced and under the rules laid over.

## TARA STREET

### CENTRAL BRIDGE AT TARA (DISTRICT II)

- Neil Cable City Engineer reviewed the Item.
- Agenda Report No. 03-0869
- Council Member Fearey momentarily absent.  
Council Member Gray momentarily absent.
- The 2003 Capital Improvement Program includes funds to improve the Central Avenue Bridge at Tara Street. District II Advisory Board sponsored an August 4, 2003, neighborhood hearing on the project. The Board made no formal recommendation.
- The existing bridge is a concrete box culvert. The project will extend the structure to the north and south. Central will be widened east and west of Tara to provide four through lanes and a two-way center left turn lane. Work is scheduled to begin this fall and be completed next spring.
- The project budget is \$720,000 with \$270,000 paid by the City and \$450,000 by Federal Grants administered by the Kansas Department of Transportation. The funding source for the City share is General Obligation Bonds.
- Motion-- Schlapp moved that the project be approved, the Ordinance be placed on first reading and  
--carried State/Federal agreements and necessary signatures be approved as required. Motion carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 39

## ORDINANCE

An Ordinance declaring the Central Bridge at Tara (472-83801) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

### CITY/COUNTY

### CITY/COUNTY CONTRACT FOR ECONOMIC DEVELOPMENT SERVICES

Allen Bell

Director of Economic Development reviewed the item.

Agenda Report No. 03-0870

In 2002, the City, County and Chamber of Commerce entered into a community-wide effort to develop a strategic plan for economic development in the Wichita region. A primary recommendation of the Plan was to create an organizational structure comprised of public and private investors to focus on important economic development actions, including job recruitment, business retention and expansion, workforce development and related activities to support these objectives.

On July 1, 2003, the City Council agreed, in concept, to join a new economic development organization, called the Greater Wichita Economic Development Coalition ("GWEDC") and to work with the other partners in developing the formal governance and economic development work plan/agreement. The result of this work is presented for formal approval in the form of a contract for economic development services between the City, Sedgwick County and the Greater Wichita Economic Development Coalition.

Under the proposed contract, the City and County commit to funding economic development activities for a period of five years in amounts equal to \$.60 per capita, based on the population of each parties jurisdiction as reported by the 2000 U.S. Census. For the City of Wichita, this would result in an annual contribution of \$206,570. Funding from the private sector would be contributed through a fundraising process, conducted by the GWEDC and the Wichita Area Chamber of Commerce with the assistance of professional fundraising consultants. It is intended that the private funding will at least match the public funding.

Implementation of the economic development program will be carried out by the staff of the Wichita Area Chamber of Commerce, under the terms of a contract with the GWEDC. GWEDC will approve the annual budget for this program and will oversee its implementation. The contract between GWEDC and the Chamber will include specific and measurable performance outcomes. The economic development efforts will be periodically evaluated by an independent economic research firm, such as, the WSU Center for Economic Development and Business Research.

To provide for the oversight of economic development efforts, GWEDC will form an 11-member steering council whose membership will include two representatives each from the City and County. A fifth public sector member will be appointed by the Regional Economic Area Partnership (REAP). The six private sector members of the steering council will include two representatives of the Chamber and four members selected from among the private sector contributors.

Funding for the City's contribution to the economic development program will be subject to annual appropriations of funds through the annual budget process. Funding for the 2004 contract period has been included in Economic Development Fund in the adopted 2004 City Budget.

The City has the authority to enter into the proposed contract, subject to annual appropriation of funding. The five-year contract may be terminated in advance without cause if the Council fails to appropriate funding for the ensuing year's activities. City representation on the GWEDC steering

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 40

council shall be appointed annually by the City Council and the representatives may be changed at any time by Council action.

Motion--  
--carried

Mayans moved that the contract between the City, Sedgwick County and the Greater Wichita Economic Development Coalition be approved and the necessary signatures be authorized. Motion carried 7 to 0.

## MINIMUM FACILITY LIABILITY INS.

## AMENDMENT TO THE MINIMUM FACILITY LIABILITY INSURANCE STANDARDS FOR LICENSED ALTERNATIVE CORRECTIONAL HOUSING FACILITIES

Kurt Schroeder

Central Inspection Superintendent reviewed the item.

Mayor Mayans momentarily absent with Vice Mayor Fearey in the Chair.

Agenda Report No. 03-0871

For the past several months, the City of Wichita Alternative Correctional Housing Advisory (ACH) Board has considered proposed changes to the minimum liability insurance requirements for licensed alternative correctional housing facilities. The current ordinance requires licensed facilities to maintain a general liability insurance policy naming the City as an additional insured in the amount of at least \$100,000 for each resident for which the facility is licensed up to five million dollars, but not less than one million dollars. Six (6) of the seven (7) currently licensed facilities have 50 or more licensed beds/clients, requiring the maximum required coverage of five million dollars.

Early this year, this matter was brought to the attention of the ACH Board by licensed facility operators who indicated that the cost of the required minimum \$5,000,000 blanket liability policy had increased by several times since adoption of the original ordinance in 1998, and had become extremely difficult to obtain in such a large amount since 9-11. The facility operators noted that there had been no claims filed against the City in the five (5) years since the licensing ordinance was adopted, and that the insurance requirements for nearly all other types of businesses requiring City license and insurance naming the City as an additional insured had maximum required liability coverage of one million dollars.

During several meetings, the ACH Board heard testimony from licensed correctional housing facilities about the insurance requirements, and reviewed additional insurance information provided by local risk managers, insurers, other residential-type facilities in Wichita, and Law Department staff. The ACH Board review indicated that the interests of the City, facilities and surrounding neighborhoods would be more than adequately protected by a minimum general liability insurance requirement of one million dollars, naming the City as an additional insured.

At its June 27, 2003 meeting, the ACH Board voted unanimously to recommend to the City Council approval of an ordinance amendment to require a blanket one million dollar general liability insurance requirement, still naming the City as an additional insured, for all licensed ACH facilities.

Vice Mayor Fearey

Vice-Mayor Fearey inquired if anyone wished to speak and no one appeared.

(Mayor Mayans present)

Motion--

Fearey moved that the Ordinance be placed on first reading. Motion carried 7 to 0.

## ORDINANCE

An Ordinance Amending Section 20.08.110 of the Code of the City of Wichita, Kansas, pertaining to minimum liability insurance standards for alternative correctional housing facilities, and repealing the original of said section, introduced and under the rules laid over.

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 41

## PROJECT ACCESS

## PROJECT ACCESS CONTRACT RENEWAL

Chris Cherches

City Manager reviewed the item.

Agenda Report No. 03-0872

Since 1999, the City in partnership with the Sedgwick County Medical Society, United Way, and the County, has participated in a program (Project Access) providing medical services for the uninsured. This innovative program involves a community partnership that links physicians, social service agencies, hospitals, clinics, and area pharmacies to address the needs of uninsured low-income residents. The current contract between the City and the Central Plains Regional Health Care Foundation, Inc. (the non-profit organization responsible for Project Access) is to provide funds for prescription services. This contract was entered into September 1, 2001 and was renewed for a one-year period in 2002. The renewed contract is due to expire on August 31, 2003 but there is one more option available to renew this contract for an additional one-year period. A recommendation to renew the contract through August 31, 2004, is before the City Council for consideration.

The City and Sedgwick County have supported Project Access, and have financially participated in the program since it became operative. Project Access is a vital part of a network that serves uninsured individuals and the need for such service is demonstrated by estimates of a local uninsured base of 55,000 persons, representing up to 13 percent of the area population. Each year there has been an increasing demand for the program's services, attributable in part to the current economic conditions. From September 2001 through August 2002, the third year of the program, 1,313 individuals were served through the program.

This program has been a model of public and private sector collaboration. The City and County program contributions, which provide for prescription services, are matched by participation of the local medical community. A majority of the area physicians and medical facilities are participants in the program. The value of their contributed care in the third program year alone is \$1,614,449 in total donated physician services and \$4,645,398 in total donated hospital services, not including additional labs, ambulatory surgery centers, and other ancillary services. Measures of the program's success include high ratings on patient satisfaction, the development of collaborative partnerships, successful replication of the program in other locales, and the number of persons receiving needed medical services.

The contract renewal total is \$300,000, the same amount provided for the 2002-03 period. It is proposed that the City use federal Community Services Block Grant (CSBG) funds it receives to serve low-income persons to pay the contract costs. The contract renewal will not obligate general fund monies.

Approval as to form by the Department of Law will be obtained prior to execution of the contract renewal.

Council Member Martz momentarily absent.

Council Member Brewer momentarily absent.

Mayor Mayans

Mayor Mayans inquired if anyone wished to speak and no one appeared.

Motion--

--carried

Mayans moved that the renewal of Project Access Contract be approved and the necessary signatures be authorized. Motion carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 42

## SETTLEMENT

### CONSENT SETTLEMENT

Gary Rebenstorf

Director of Law reviewed the item.

Agenda Report No. 03-0879

The District Attorney reviewed allegations that in the April 1, 2003 regular meeting of the Wichita City Council a member of the Council moved to recess the meeting into executive session and the motion failed to indicate the place at which the public meeting would resume following the executive session as required under K.S.A. 75-4319(a)(3). At the conclusion of the executive session, the members of the Wichita City Council resumed the public meeting in the open public lobby of the Council offices across the hallway from the City Council Chambers. No one was present in the Council Chambers, and the meeting of the Council in its office lobby would have been visible to anyone from the Council Chamber doors. The wall of the Council office facing the Council Chamber across the hall is full-length glass, unobstructed by any draperies or other covering. The choice to meet in the Council offices has developed from the consistent practice of the media, over several years, to congregate in the lobby awaiting the Council's reconvening of the public session.

After such review, it was determined that a consent settlement of this matter was appropriate. Upon notification that the motion failed to indicate the place at which the meeting would resume, the City immediately amended its procedures to come into full compliance and has been in full compliance since notification. Members of the media are the only persons having filed a request for notice of meetings. Had any members of the media remained through the executive session on April 1, 2003, they would have found the Council in the accustomed place. The result of reconvening and taking action in the open and public Council office lobby was no different from taking action in the empty Council Chamber. Under these circumstances, although the acts and procedures constitute a technical violation, they were not intentional or a subterfuge to defeat the purposes of the Kansas Open Meetings Act.

After some discussion, a tentative agreement has been reached between the District Attorney and the City to resolve the matter with a directive for future compliance that future motions for executive sessions designate the location in which the public meeting will reconvene. This settlement resolves any prior action by the City of a similar nature. The City is to pay the court costs of \$110.

Funding for the court costs comes from the Tort Claims Fund.

Gary Rebenstorf

Gary Rebenstorf explained the error has to do with the matter of the motion to move to executive session. The circumstances in the consent settlement recognizes that this is a technical violation.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to speak and no one appeared.

Motion--

Lambke moved that the settlement and payment of costs be authorized.

Council Member Schlapp

Council Member Schlapp said she had talked with the present members of council who also served on council the day of this now famous vote. "They have assured me that there was not intent to hide from the press or circumvent the law. I believe them, so does the district attorney. It was truly an honest mistake. They would have made the same vote whether in the council chambers or council office with or without the press. 2) We have agreed that it was a technical mistake and have agreed that it does not happen again. 3) This vote today does not condemn or condone the substance of the action taken on that day. It only pertains to the process, the technical violation. 4) This agreement does not preclude the examination of nor allow for the concealing of any information from the public or the press. For these reasons I feel comfortable supporting the agreement."

Mayor Mayans

Mayor Mayans said that he is going on record as voting no on this issue.

--carried

Motion carried 5 to 2. Gray, Mayans - No.

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 43

## CITY COUNCIL AGENDA

### APPOINTMENTS

Motion -- Mayans moved that the following appointments be approved: David Moses, Police and Fire Retirement Board (Schlapp); and Nile Dillmore, Community Corrections Advisory Board (Fearey). Motion carried 7 to 0.  
-- carried

### **TRAVEL EXPENSES** APPROVAL OF TRAVEL EXPENSES FOR COUNCIL MEMBER MARTZ TO ATTEND THE HUMAN DEVELOPMENT STEERING COMMITTEE MEETING IN DAYTON, OHIO, OCTOBER 2-5, 2003

Motion--carried Brewer moved that the expenses be approved. Motion carried 7 to 0.

### **OFF AGENDA ITEM**

Council Member Schlapp Council Member Schlapp read the following statement: "I would like to state that I am concerned about the progress and work of our City and the ability of the council to work on all of our important issues. The matters of late, that have come to our attention concerning oversight and possible wrong doings are distressing. They are diverting us from other issues. Like the rest of the council, I want to face these issues squarely. I would hope that any further issues, if there are any, be brought forward now, and allow us to deal with them now. Information needs to be readily available to us and to the press and the public. There needs to be no hint that information is being withheld, for any reason. If it is necessary for this council to have more oversight in these areas, I would be in favor of that. If it is proven that there are wrong doings on the part of some member or members of the staff and if these wrong doings are irreconcilable or if these wrong doings are inhibiting our ability to function and move forward with the good work of this city, I will work with council and staff, with all means available, to see that these people are removed. It is time for us to take care of our internal affairs, not to just discuss them from the bench or play them out in the press. It is time for us to gather information, decide what our actions should be, make the necessary adjustments and move forward."

Mayor Mayans Mayor Mayans said the executive session to be held later today could include the matter of non-elected personnel.

### CONSENT AGENDA

Mayans moved that the Consent Agenda be approved as consensus Items. Motion carried 7 to 0.

### **BOARD OF BIDS** REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED AUGUST 18, 2003.

Bids were opened August 15, 2003, pursuant to advertisements published on:

PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION: Sewers, Paving and Water Mains as per specifications.

Crest Street/Donegal Lane/Bristol Street from the north line of Reserve A (south line of Pine Meadow Street) to the north line of Lot 25, Block 1 (south line of Pine Meadow Street); Bristol Court from the west line of Bristol to and including the cul-de-sac serving Lots 11 through 17, Block 2; Bristol Court from the east line of Bristol to and including the cul-de-sac serving Lots 16 through 20, Block 1; Crest Court serving Lots 5 through 8, Block 1 to serve Pine Meadow Addition - east of Greenwich, south of 13th Street. (472-83458/765803/490914) Does not affect existing traffic. (District II)

Cornejo & Sons Inc. - \$250,271.30

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 44

Install traffic signals at the Intersection of 29th & Webb - 29th, Rock to Webb Phase II - (29th Street North & Webb Road. (472-83519/706841/202307) Traffic to be maintained using flagpersons and barricades. (District II)

Phillips Southern Electric - \$54,126.00

Zelta from the south line of Lincoln to the east line of Lot 46, Block 5; Zelta Court, serving Lots 1 through 9, Block 1, from the west line of Zelta to and including the cul-de-sac; Zelta Court, serving Lots 23 through 29, Block 3 from the east line of Zelta to and including the cul-de-sac; Bracken from the north line of Zimmerly to the west line of Zelta; Bracken Court, serving Lots 14 through 18, Block 2 from the south line of Bracken to and including the cul-de-sac; Zimmerly from the west line of Lot 20, Block 1 to the west line of Zelta; Zimmerly Court serving Lots 12 through 22, Block 3 from the north line of Zimmerly to and including the cul-de-sac; Sidewalk on one side of Zimmerly from the east line of Bracken, to the west line of Zelta; Sidewalk on the west side of Zelta from the south line of Lincoln to the west line of Lot 46, Block 5; Sidewalk on the east side of Zelta from the south line of Lincoln to the north line of Lot 31, Block 3; Sidewalk on one side of Bracken from the north line of Zimmerly to the west line of Zelta to serve Woodland Lakes Estates Third Addition - north of Harry, west of 127th Street East. (472-83715/765800/490911) Does not affect existing traffic. (District II)

Cornejo & Sons Inc. - \$354,870.25

Joann, Central to Zoo to serve Westridge Acres, Davis Gardens, and Omo Additions - north of Central, west of Sheridan. (472-83475/765718/490829) Traffic to be maintained using flagpersons and barricades. (District VI)

Kansas Paving Company - \$123,132.90

Bayley Court from the south line of Bayley, south to and including the cul-de-sac to serve Hilltop Manor Third Addition - north of Harry, west of Oliver. (472-83765/602500/800301/010110) Does not affect existing traffic.. (District III)

Kansas Paving Company - \$32,580.00

Improving the K-42 and Hoover Intersection and Traffic Signals. Widening Hoover from 1,475 ft south of 31st Street South to 300 ft north of Harry to provide four through lanes and a center left turn lane and drainage N/A - Hoover Road from Harry to 31st Street South (05-01-03781/87 K-9049-01/472-83176/706827/201293) Traffic to be maintained during construction using flagpersons and barricades. (District IV)

Ritchie Paving - \$7,293,944.34

Mayans moved that the contract(s) be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate, and the and the necessary signatures be authorized. Motion carried 7 to 0.

PUBLIC WORKS DEPARTMENT/BUILDINGS DIVISION: West Façade Improvements-Kansas Sports Hall.

Compton Construction - \$138,300.00 (Total net bid)

PARK & RECREATION DEPARTMENT/RECREATION DIVISION: Weight Equipment/Protective Floor.

Group 1 – Defer until 09/08/03

Mid States Fitness Equipment - \$3,500.00 (Group 2/total net bid)

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 45

PARK DEPARTMENT/GOLF DIVISION: Grass Seed.

Pueblo Chemical & Supply - \$41,196.00 (Total net bid)

VARIOUS DEPARTMENTS/VARIOUS DIVISIONS: A/C & Furnace Filters.

Purolator Products Company - \$38,075.61 (Total net Bid\*)

\*See Exhibit A for Contract Pricing on the Formal Bid Report

Motion--  
--carried

Mayans moved that the contract(s) be awarded as outlined above, same being the lowest and best bid, and the necessary signatures be authorized. Motion carried 7 to 0.

**CMB**

## **APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:**

<u>Renewal</u>	<u>2003</u>	<u>Consumption off Premises)</u>
Jim L. Smith	Farmer's Market Inc.	2901 North Broadway
<u>New Operator</u>	<u>2003</u>	<u>Consumption on Premises</u>
Heather L. Soria	Cholitas Mexican Restaurant*	8987 West Central

\*General/Restaurant – 50% or more of gross receipts derived from sale of food.

Motion--  
-- carried

Mayans moved that the licenses be approved subject to Staff review and approval. Motion carried 7 to 0.

## **PRELIMINARY ESTS. PRELIMINARY ESTIMATES:**

- a) Boxthorn from the north line of Lot 10, Block C, south and east to the west line of Wawona; on Mainsgate from the south line of Lot 9, Block C, north to the south line of Lot 7, Block C, and on Ayesbury from the east line of Boxthorn, east to the northwest line of Lot 10, Block E; Boxthorn Court from the southwest line of Boxthorn west to and including the cul-de-sac; and on Ayesbury Court from the northeast line of Ayesbury, northeast to and including the cul-de-sac. Sidewalk constructed along one side of Boxthorn, Mainsgate and Ayesbury to serve The Fairmont Addition - north of 21st Street North, west of 127th Street East. (472-83484/765808/490919) Does not affect existing traffic. (District II) - \$515,000
- b) Regency Park from 190 feet west of the west line of Lot 5, Block 2 to the west line of Lot 4, Block 1 to serve Regency Park Addition - north of K-96, west of Greenwich (472-83802/765807/490918) Does not affect existing traffic.. (District II) - \$180,000
- c) Bayley, Rue, and Lynnrae Lane from the east line of Bedford Court to the northeast line of Bayley, including the cul-de-sac to serve Lots 7 thru 10, Block C to serve Grace Park Addition - north of Harry, east of Greenwich. (472-83798/765806/490917) Does not affect existing traffic. (District II) - \$324,000
- d) Bedford Court at the northeast corner of Lot 4, Block 4, Windsor Park Addition, and a cul-de-sac on Bedford Court at the east line of Lot 8, Block 4, Windsor Park Addition, and curb to gutter paving on Bedford from the south line of Bayley to Lincoln to serve Grace Park Addition - north of Harry, east of Greenwich. (472-83797/765805/490916) Does not affect existing traffic. (District II) - \$126,000
- e) Rita, from the east line of Maize Road to the south line of Jewell; Jewell, from the west line of Rita to the east line of Crestline; Jewell Circle, from the west line of Rita, to and including cul-de-sac



# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 46

(Lots 18 thru 27, Block 1); Crestline from the north line of Lots 34, Block 2 to the south line of Jewell to serve Shelly's Orchard Addition - east of Maize, north of Pawnee. (472-83783/765804/490915) Does not affect existing traffic. (District V) - \$244,000

f) 2003 Planeview Sanitary Sewer Rehabilitation, Phase A N/A - between Hillside and Oliver, north of 31st Street South. (468-83650/622239/643347) Traffic to be maintained during construction using flagpersons and barricades. (District III) - \$63,270

g) 2003 Sanitary Sewer Rehabilitation, Phase C N/A - between Seneca and Woodland & 21st Street North and 55th Street South. (468-83664/620384/663505) Traffic to be maintained during construction using flagpersons and barricades. (Districts I,III,VI) - \$131,000

h) Canal Route Manhole Reconstruction, Phase 1 - along I-135 Canal between Third Street and Kellogg. (468-83491/624077/652526) Does not affect existing traffic. (District I) - \$256,000

Motion--carried Mayans moved that the Preliminary Estimates be received and filed. Motion carried 7 to 0.

## **DEEDS/EASEMTNS      DEEDS AND EASEMENTS:**

a) Sidewalk and Traffic Signal Easement dated July 24, 2003 from Calvary United Methodist Church of Wichita, Kansas, Inc., a Kansas Religious Corporation for a tract of land located in Lot 11, Block 4, Sycamore Village 3rd Addition to Wichita, Sedgwick County, Kansas (Rock, 22nd to 29th, OCA #706844). No cost to City.

b) Street Light Easement dated May 27, 2003 from Jimmy S. Ogborn and Maria Ogborn for a tract of land located in Lot 2, Block 2, Southriver Addition to Sedgwick County, Kansas (Street Lights, OCA #130161). No cost to City.

c) Street Light Easement dated June 10, 2003 from Mike L. Davis and Jessica L. Davis for a tract of land located in Lot 21, Block 2, Orchard View 2nd Addition, Sedgwick County, Kansas (Street Lights, OCA #130161). No cost to City.

Motion--carried Mayans moved that the documents be accepted. Motion carried 7 to 0.

## **PETITIONS      PETITION TO CONSTRUCT A WATER DISTRIBUTION SYSTEM TO SERVE PART OF DUGAN INDUSTRIAL 2ND ADDITION - NORTH OF K-42 HIGHWAY, EAST OF MAIZE ROAD. (DISTRICT IV)**

Agenda Report No. 03-0873

The Petition has been signed by one owner, representing 100% of the improvement district.

The project will extend a water distribution system to an industrial site located north of K-42 Highway, east of Maize Road.

The Petition totals \$45,495. The funding source is special assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or the majority of the property in the improvement district.

Motion--carried Mayans moved that the Petition be approved and the Resolution be adopted. Motion carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 47

## RESOLUTION NO. 03-442

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89871 (north of K-42 Highway, east of Maize) ,in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

### **ADVISORY BOARD      MINUTES OF ADVISORY BOARDS/COMMISSIONS:**

Board of Code Standards and Appeals Meeting Minutes July 7, 2003  
Design Council Meeting Minutes July 17, 2003  
Housing Authority Board Meeting Minutes June 17, 2003  
Office of Wichita Public Library Meeting Minutes July 15, 2003  
Wichita Employees' Retirement Board/Police & Fire Retirement Board April 25, 2003  
Wichita Employees' Retirement Board/Police & Fire Retirement Board May 1, 2003  
Wichita Employees Retirement Board/Police & Fire Retirement Board May 23, 2003  
Wichita Employees' Retirement Board/Police & Fire Retirement Board June 5, 2003  
Wichita Employees' Retirement Board Regular Meeting Minutes June 18, 2003  
Wichita Employees' Retirement Board Regular Meeting Minutes June 25, 2003  
2002 Comprehensive Annual Financial Report, Wichita Retirement Systems

Motion--carried      Mayans moved that the minutes be received and filed. Motion carried 7 to 0.

### **STREET CLOSURES      CONSIDERATION OF STREET CLOSURES**

There were no street closures to consider.

### **FINANCE REPORT      QUARTERLY FINANCIAL REPORT FOR THE SECOND QUARTER OF 2003**

Motion--carried      Mayans moved that the report be received and filed be received. Motion carried 7 to 0.

### **WEAPONS      WEAPONS DESTRUCTION**

Agenda Report No. 03-0874

The Police Department has requested authorization to destroy several weapons, which have been confiscated in criminal activity but are no longer needed as evidence.

City Code provides that weapons seized in connection with criminal activity shall be destroyed or forfeited to the Wichita Police Department. All transactions involving weapon disposal must have prior approval of the City Manager. A list of weapons being destroyed has been provided, and includes a total of 99 handguns and 48 long guns. The destruction of the weapons will be witnessed and monitored by Staff.

Upon review by the City Council, the necessary court documents will be prepared to proceed with destruction of the listed weapons.

Motion--carried      Mayans moved that the file list of weapons be received. Motion carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 48

## CLAIMS

### REPORT ON CLAIMS ALLOWED JULY, 2003:

<u>Name of Claimant</u>	<u>Amount</u>
Green, Dana M.	\$104.00
Shedrick	\$407.00
Kansas Gas Service	\$725.48**
Laudick, Sharon	\$160.30

\*\* Settled for lesser amount than claimed.

Motion--carried Mayans moved that the file be received. Motion carried 7 to 0.

## AGREEMENTS/CONT RAILROAD PERMITS FOR MAINS 19 AND 20 SOUTHWEST INTERCEPTOR SEWER-NORTH OF 21<sup>ST</sup> STREET, EAST OF TYLER ROAD IN BASIN 4. (DISTRICT V)

Agenda Report No. 03-0875

The City Council approved the Basin 4 sanitary sewer projects on November 28, 2000. The sanitary sewer projects include the construction of a main sanitary sewer system to serve the drainage basin roughly bounded by Tyler Road, 45th Street, Arkansas River, and 21st Street. Permits from the Kansas and Oklahoma Railroad are required due to the alignment of the sanitary sewer system.

Motion-- Mayans moved that the railroad permits be approved and the necessary signatures be authorized.  
--carried Motion carried 7 to 0.

## CONSTRUCTION ENGINEERING AND STAKING FOR REED'S COVE ADDITION - SOUTH OF 21<sup>ST</sup>/EAST OF 127<sup>TH</sup> STREET EAST. (DISTRICT II)

Agenda Report No. 03-0876

The City Council approved the project on May 6, 2003. On July 1, 2003, the City approved an Agreement with MKEC Engineering Consultants, Inc. (MKEC) to design the improvements. The Design Agreement with MKEC requires MKEC to provide construction engineering services if requested by the City.

The proposed Supplemental Agreement between the City and MKEC provides for construction engineering and staking for the improvements in Reed's Cove Addition. Due to the current workload created by previous projects, City crews are not available to perform the construction engineering for this project.

Payment will be on a lump sum basis of \$75,675 and will be paid by special assessments.

Motion-- Mayans moved that the Supplemental Agreement be approved and the necessary signatures be  
--carried authorized. Motion carried 7 to 0.

## WATER STUDY

### WATER TREATMENT PILOT STUDY

Agenda Report No. 03-0877

On October 3, 2000, the City Council authorized several projects for the development of new water supplies for the City. The projects will help develop water supplies to meet City water needs through the year 2050.

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 49

The Integrated Local Water Supply Plan (ILWS) includes utilizing several local water supply sources. A major component of the ILWS is to recharge the Equus Beds Wellfield using water from the Little Arkansas River. There are several water treatment techniques that will probably work to clean up the water taken directly from the river. Staff believes that a treatment technology using "deep bed filtration" may be able to do an effective job of cleaning the water for less cost than other alternatives that have been evaluated. To determine how effective this technology would be in treating water from the Little Arkansas River, utilization of a pilot plant is required. The pilot plant must be used when there is excess flow in the Little Arkansas River, thus making it necessary to do the pilot work in the spring, or fall, when expected rainfall events create excess.

Staff negotiated three Agreements with STS, owners of the technology, for them to deliver a pilot plant, provide technical services to help operate the plant, and to transport the plant for a very reasonable price in comparison with other pilot studies. It is estimated that the pilot plant will need to be on-site for 90 days to obtain appropriate flow conditions in the river; however, if there are "good" rainfall events, the time will be reduced.

The three Agreements submitted by STS are each \$5,000, for a total of \$15,000. Funding for this project is available in the CIP W-549 (Water Supply Plan) that has adequate funds available.

City Council authorization is required for projects that exceed \$10,000.

Motion--  
--carried

Mayans moved that the Agreements be approved and the necessary signatures be authorized. Motion carried 7 to 0.

## DESIGN AGRMTS

### **TYLER'S LANDING ADDITION – SOUTH OF 37<sup>TH</sup> STREET NORTH, EAST OF TYLER. (DISTRICT V)**

Agenda Report No. 03-0878

The City Council approved the project on February 4, 2003.

The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements in Tyler's Landing Addition. Per Administrative Regulation 7a, staff recommends the selection of Baughman as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment will be on a lump sum basis of \$25,400, and will be paid by special assessments.

Motion--  
--carried

Mayans moved that the Agreement be approved and the necessary signatures be authorized. Motion carried 7 to 0.

## CONDEM. AWARDS

### **PAYMENT OF CONDEMNATION AWARDS:**

#### **1425 SOUTH RIDGE ROAD. (DISTRICT V)**

Agenda Report No. 03-0896

The City has identified the need to acquire for airport purposes, a property located at 1425 South Ridge Road. Earlier this year the City initiated eminent domain proceedings to acquire this property. On July 24, 2003, the court appointed appraisers filed their award. They determined the compensation to be paid for the acquisition to be \$483,000.00. The court awarded the three appraisers fees in the amount of \$7,500.00. Court costs are \$110.00.

In order for the City to acquire this property it must pay the award, together with fees and costs, to the Clerk of the District Court on or before August 28, 2003.

The costs of acquiring these properties, will be paid by the Wichita Airport Authority.

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 50

The City has until August 28, 2003, to decide whether or not to acquire the property. If payment is not made to the Clerk by that date, the eminent domain is deemed abandoned.

Motion--  
--carried

Mayans moved that payment to the Clerk of the District Court in the amount of \$490,610.00 be authorized. Motion carried 7 to 0.

## **1937 NORTH HILLSIDE. (DISTRICT I)**

Agenda Report No. 03-0897

The City has identified the need to acquire a property located at 1937 N. Hillside in connection with the project to improve North Hillside near WSU. Earlier this year the City initiated eminent domain proceedings to acquire this property. On July 28, 2003, the court appointed appraisers filed their award. They determined the compensation to be paid for the acquisition to be \$25,000.00. The court awarded the three appraisers fees in the amount of \$1,500.00. Court costs are \$110.00.

In order for the City to acquire this property it must pay the award, together with fees and costs, to the Clerk of the District Court on or before August 28, 2003.

The costs of acquiring these properties will be paid from the North Hillside project.

The City has until August 28, 2003, to decide whether or not to acquire the property. If payment is not made to the Clerk by that date, the eminent domain is deemed abandoned.

Motion--  
--carried

Mayans moved that payment to the Clerk of the District Court in the amount of \$26,610.00 be authorized. Motion carried 7 to 0.

## **PROPERTY ACQ.**

## **ACQUISITION OF A PORTION OF 233, 245, AND 253 NORTH HILLSIDE KELLOGG TO CENTRAL. (DISTRICT II)**

Agenda Report No. 03-0880

The Hillside Improvement Project, Kellogg to Central, was approved for design and right-of-way acquisition by the City Council on December 11, 2001. Four of the tracts to be acquired are at 233, 241, 245, and 253 North Hillside. The sites contain a total 18,750 square feet and are improved with four medical office buildings totaling 5,956 square feet. The project requires the east 10 feet of each lot.

While they share a common parking lot, each building is owned individually and has its own discrete parking. The ten feet required for the project takes enough parking that none of the buildings will meet code after the taking. Because of this, each building was considered a total take and offers made accordingly. The appraised value of the four buildings was \$261,295. There are two vacant residential properties immediately south of these buildings. The sellers have negotiated to buy these properties to replace the parking being taken for the project. The cost to purchase, demolish and redevelop as a parking lot has been estimated at \$185,000. The sellers have accepted this amount for the land needed for the project.

Funds have been budgeted in the 2002 Capital Improvement Program for project acquisitions. The funding source is General Obligation Bonds. A budget of \$200,000 is requested. This includes \$185,000 for the acquisition, \$15,000 for closing costs, surveys, title insurance and other miscellaneous costs.

Motion--  
--carried

Mayans moved that the Budget be approved; the Real Estate Purchase Contracts be approved, and the necessary signatures be authorized. Motion carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 51

## CONDEMNATIONS

### REPAIR OR REMOVAL OF DANGEROUS AND UNSAFE STRUCTURES.

Agenda Report No. 03-0881

	<u>Address</u>	<u>District</u>
a)	2812 East Mossman	I
b)	1246 North Poplar	I
c)	1143 North Estelle	I
d)	717 North Beech	II
e)	660 North Byrd	II

Motion--  
--carried

Mayans moved that the Resolution(s) setting the Public Hearing on October 7, 2003, at 9:30 a.m. or soon thereafter be adopted. Motion carried 7-0

#### RESOLUTION NO. 03-443

A Resolution fixing a time and place and providing for notice of a hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as: W. 1/2 Lot 7- - all Lots 72-74 & s. 5 ft. vac. alley, Irving now Mossman Avenue, Frisco Avenue Addition, Wichita, Sedgwick County, Kansas known as 2812 East Mossman may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

#### RESOLUTION NO. 03-444

A Resolution fixing a time and place and providing for notice of a hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as: Lots 62-64, Mona now Poplar Street, Fairmount Park Addition, Wichita, Sedgwick County, Kansas known as 1246 North Poplar, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

#### RESOLUTION NO. 03-445

A Resolution fixing a time and place and providing for notice of a hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as: Lots 105-107-109 & north 15 ft., Lot 111 Estelle Avenue, Fairmont Park Addition, Wichita, Sedgwick County, Kansas known as 1143 North Estelle, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

#### RESOLUTION NO. 03-446

A Resolution fixing a time and place and providing for notice of a hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as: South 1/2 Lot 9, Block 3, Lynch Addition, to travel Air City, Wichita, Sedgwick County, Kansas known as 717 North Beech, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 52

## RESOLUTION NO. 03-447

A Resolution fixing a time and place and providing for notice of a hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as: Lots 44-45-46, Block 4, McClaren Addition, Wichita, Sedgwick County, Kansas known as 660 North Byrd, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## **RIVERSIDE HEALTH RECONVEYANCE OF PORTION OF LAND – RIVERSIDE HEALTH SYSTEMS, INC.** **(DISTRICT VI)**

Agenda Report No. 03-0883

In April 1997, the City Council approved the issuance of \$23,270,000 Hospital Facilities Improvement and Refunding Revenue Bonds for the benefit of Riverside Health Systems, Inc. to finance the construction of the family practice clinics and a portion of the retirement community and to refinance outstanding debt on the hospital. City Council also approved the subsequent issuance of \$3,600,000 of Hospital Facilities Improvement Revenue Bonds in August of 1999. In February 2002, the City Council approved an Amended and Corrected Notice of Lease and approved an Amended and Corrected Assignment of Lease in connection with the removal of erroneous lot descriptions and the conveyance of certain other Lots to the City that were inadvertently left out of the original project description. The City of Wichita on August 1, 2003, received notice from the Via Christi Riverside Medical Center, Inc. (as successor of Riverside Health Systems, Inc.) of its intention to exercise its option to purchase an unimproved portion of land.

Under the terms of the project Lease, Via Christi Riverside Medical Center, Inc., has the right to purchase unimproved portions of the project property, upon certifying that such portions are not required for the operation of the project, that the sale will not impair the value or damage ingress and egress to the project, and that no event of default exists under the Lease. The purchase price is fair market value as evidenced by an independent appraisal, and must be paid into the trust estate for application to debt service obligations.

There is no financial impact to the City resulting from the requested change.

Bond Counsel has prepared, and the City Attorney's office has reviewed and approved as to form, the Resolution and the instruments authorized thereby.

Motion--

Mayans moved that the Resolution authorizing the reconveyance of a portion of the unimproved land upon satisfaction of all conditions under the Lease be adopted and the necessary signatures be authorized. Motion carried 7 to 0.

--carried

## RESOLUTION NO. 03-448

A Resolution of the City of Wichita, Kansas, approving the sale of certain unimproved land financed with the proceeds of Revenue Bonds of the City and authorizing the execution and delivery of a Special Warranty Deed and a Second Supplemental Lease Agreement, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 53

## ORDINANCES

### SECOND READING ORDINANCE. (FIRST READ AUGUST 12, 2003)

- a) Industrial Revenue Bonds – Premier Beverage, Inc. (District IV)

#### ORDINANCE NO 45-783

An Ordinance of the City of Wichita, Kansas, authorizing the issuance of \$3,325,000 aggregate principal amount of taxable Industrial Revenue Bonds, Series III, 2003 (Premier Beverage, Inc.) for the purpose of providing funds to purchase, acquire, remodel and equip a commercial distribution facility; prescribing the form and authorizing execution of a Trust Indenture by and between the City and Central Bank & Trust Company, as Trustee with respect to the Bonds; prescribing the form and authorizing the execution of a Lease Agreement by and between the City and Premier Beverage, Inc.; approving the form of a Guaranty Agreement by and between the City and Glazer's Wholesale Drug Company, Inc., as purchaser of the Bonds, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

### FIRST READING ORDINANCE

Motion -- carried

Mayans moved that the Ordinance be placed on first reading. Motion carried 7 to 0.

- a) Sidewalk repairs.

#### ORDINANCE

An Ordinance making a special assessment to pay for the improvement of and providing a tax levy for the cost of construction of sidewalks in the City of Wichita, Kansas, introduced, and under the plans laid over.

### PLANNING AGENDA

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

DED 2003-15

### DED 2003-15 - CONTINGENT DEDICATION OF A SIDEWALK AND UTILITY EASEMENT FOR PROPERTY LOCATED

Agenda Report No. 03-0884

As a requirement of a Conditional Use (Case No. CON 2003-05), this Dedication is being submitted for an easement and a sidewalk along Pawnee and construction and maintenance of public utilities.

The Dedication has been reviewed and approved by the Planning Commission.

The Dedication will be recorded with the Register of Deeds.

Motion--carried

Mayans moved that the Dedication be accepted. Motion carried 7 to 0.



# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 54

SUB 2003-47

## SUB 2003-47 - PLAT OF WILSON FARMS FOURTH ADDITION, LOCATED WEST OF WEBB ROAD, SOUTH OF 21<sup>ST</sup>. (DISTRICT II)

Agenda Report No. 03-0885

This site, consisting of 16 lots (13.07 acres) is a replat of a portion of Lot 1, Block 2 Legacy Park Wilson Estates Addition. The site is also subject to the Wilson Estates CUP (DP-260). A Notice of Community Unit Plan Certificate has been submitted.

Petitions, all 100%, have been submitted for water, sewer and paving improvements, and a Certificate of Petitions has been provided. A Restrictive Covenant has been requiring that four (4) off-street spaces per dwelling on each lot that abuts a 32-foot street be provided for each such lot. The Restrictive Covenant also creates a homeowner's association to provide for the ownership and maintenance of the reserves. In order to allow for the platting of a street with a narrow or nonstandard right-of-way dedication, a 15-foot street, drainage, and utility easement was platted with a Restrictive Covenant restricting the use of easements. This Restrictive Covenant has also been submitted.

Since this site is within the noise impact areas of Jabara Airport, a Restrictive Covenant and an Avigational Easement was submitted. As per City Engineering, an Off-Site Drainage Easement has been submitted.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty (30) days.

The Notice of Community Unit Plan Certificate, Certificate of Petitions, Restrictive Covenants (3), Avigational Easement and Off-Site Drainage Easement will be recorded with the Register of Deeds.

Motion--  
--carried

Mayans moved that the documents and plat be approved; the necessary signatures be authorized and the Resolutions be adopted. Motion carried 7 to 0.

### RESOLUTION NO. 03-449

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89875, (west of Webb, South of 21<sup>st</sup> Street), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

### RESOLUTION NO. 03-450

Resolution of findings of advisability and Resolution authorizing improving of Lateral 86, Main 22, War Industries Sewer, 468-83696, (west of Webb, South of 21<sup>st</sup> Street), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

### RESOLUTION NO. 03-451

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89875, (west of Webb, South of 21<sup>st</sup> Street), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 55

SUB 2003-34

**SUB 2003-34 - ZONE CHANGE FROM SINGLE-FAMILY RESIDENTIAL TO GENERAL OFFICE – SOUTH OF 33<sup>RD</sup> STREET NORTH, EAST OF ARKANSAS AVENUE. (District IV)**

Agenda Report No. 03-0886

The applicant requests a zone change from “SF-5” Single Family to “GO” General Office on a 0.58 acre unplatted tract located south of 33rd Street North and east of Arkansas Avenue. The subject property is currently vacant, but formerly was developed with single-family residences that recently have been razed.

The applicant proposes to construct a multi-family infill project on 6.5 acres located immediately east of the subject property. The proposed multi-family development needs a point of access to Arkansas Avenue. Since access control is platted to 32nd Street North south of the apartment property, sufficient right-of-way is not available to improve 32nd Street North, and neighboring residents to the south on Jackson have objected to apartment traffic through their neighborhood, the applicant proposes the access drive to Arkansas Avenue be located on the subject property. The Unified Zoning Code requires that access drives be zoned to permit the use to which the access is being provided; therefore, the subject property would need to be zoned to permit multi-family uses to allow the proposed access drive. Since the applicant also proposes to use a portion of the subject property for low-density office development, the applicant has requested a zone change to the “GO” General Office zoning district since it is the first zoning district that permits both office and multi-family uses.

The surrounding area is characterized by a mixture of residential and commercial uses along the Arkansas Avenue Corridor, with several non-conforming uses that were established prior to the adoption of zoning for the area in 1958. The most proximate existing commercial uses are located at the intersection of 33rd Street North and Arkansas Avenue, which is approximately 400 feet north of the subject property. The property to the south is zoned “SF-5” Single Family and was developed with a non-conforming service station for many years until it was abandoned and razed in the past decade. The properties to the north and west are zoned “SF-5” Single Family and are developed primarily with single-family residences. The property to the east is zoned “MF-29” Multi Family and is undeveloped.

Motion--

Mayans moved that the Council concur with the findings of the MAPC and approve the zone change, subject to the condition of platting within one year; Ordinance to be forwarded to Council with the Plat. Motion carried 7 to 0.

-- carried

A03-21

**REQUEST TO ANNEX LAND NEAR THE SOUTHWEST CORNER OF THE SOUTH TYLER ROAD/WEST MACARTHUR STREET INTERSECTION. (District IV)**

Agenda Report No. 03-0887

The City has received a request to annex 1.19 acres of land situated near the southwest corner of the intersection of S. Tyler Road and W. MacArthur Road. The annexation area abuts the City of Wichita to the north of the property along McArthur Street. The property owner has received preliminary platting approval to develop the annexation area as the Eliot Addition. The owner proposes that the lot be developed as a self-storage warehouse.

Land Use and Zoning: The annexation area is presently vacant and zoned “SF-20” Single Family Residential. At the time of annexation approval the property will convert to “GC” General Commercial zoning. The property adjoining the proposed annexation area to the north is owned by Mid-Continent Airport, is zoned “SF-5” Single Family Residential, and is undeveloped. The land adjoining the proposed annexation to the south and west is owned by the applicant, developed as a single-family residence, and zoned “SF-20” Single Family. Land directly to the east is developed as a single-family residence and zoned “SF-20” Single Family Residential.

Public Services: Neither public water or sewer service currently available to the property. There are no current plans to extend public water or sewer service until at least 2007.

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 56

**Street System:** The subject property has frontage along MacArthur, a two-lane asphalt arterial street. Current traffic volumes on MacArthur are approximately 5,700 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on MacArthur will increase to approximately 11,300 vehicles per day and recommends that MacArthur be widened to four lanes.

**Public Safety:** Under the City-County first response agreement, fire services to this site currently can be provided within an eight (9) to nine (10) minute approximate response time from City Fire Station #17 located at 10651 W. Maple. Upon annexation, police protection will be provided to the area by the Patrol West Bureau of the Wichita Police Department, headquartered at 661 North Elder.

**Parks:** Pawnee Prairie Park is located approximately 1.5 miles to the north of the annexation property. Greenway paths are proposed half a mile to the south and east of the annexation site in the 1996 Parks and Open Space Master Plan.

**School District:** The annexation property is part of the Unified School District 261 (Haysville School District). Annexation will not change the school district.

**Comprehensive Plan:** The proposed annexation is consistent with current amendments to the Wichita-Sedgwick County Comprehensive Plan. The annexation property falls within the 2010 Wichita Urban Service Area as shown in the Plan.

The current approximate appraised value of the proposed annexation properties is \$3,410 with a total assessed value of \$409. Using the current City levy (\$31.406/\$1,000 x assessed valuation), this roughly yields \$12.84 in City annual tax revenues for the property. The future assessed value of this property will depend on the type and timing of any redevelopment and the current mill levy. At the time of this annexation report a projected overall appraisal value estimate for the proposed development was not available.

The property is eligible for annexation under K.S.A. 12-519, et seq.

Motion--  
--carried

Mayans moved that the annexation request and first reading of the Ordinance be approved.  
Motion carried 7 to 0.

## ORDINANCE

An Ordinance including and incorporating certain blocks, parcels, pieces, and tracts of land within the limits and boundaries of the City of Wichita, Kansas, presented, introduced and under the rules laid over. A03-21

## AIRPORT AGENDA

### AIRPORT

### PASSENGER BOARDING BRIDGES WICHITA MID-CONTINENT AIRPORT

Agenda Report No. 03-0888

The current Capital Improvement Program includes the replacement of passenger boarding bridges.

A contract has been prepared with HNTB to 1) evaluate the current equipment and usage 2) evaluate and define equipment and layout alternatives 3) review alternatives with staff 4) prepare an outline of bridge criteria and specifications 5) prepare a preliminary schedule including delivery times 6) prepare an estimate of project costs and 7) make a final presentation to staff. Once this study is complete staff anticipates HNTB to develop a design package to replace the passenger boarding bridges.

The cost of the project is estimated to be \$2,800,000 and will be funded with Passenger Facility Charges. The cost of the study contract is \$24,164.

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 57

Motion--  
--carried

Mayans moved that the contract and the capital project budget be approved and the necessary signatures be authorized. Motion carried 7 to 0.

## AIRPORT

### **SECURITY SYSTEM FOR THE SECOND FLOOR OF TERMINAL BUILDING WICHITA MID-CONTINENT AIRPORT.**

Agenda Report No. 03-0889

On November 5, 2002, the City Council approved a contract with General Services Administration (GSA) to lease 8,626 sq. ft. of space in the Terminal Building to the Transportation Security Administration (TSA), for a three-year period with one two-year option. Part of the agreement was to remodel the space according to GSA guidelines.

The TSA has requested that a security system be included as part of the remodel. It is necessary to contract with Siemens Building Technologies, Inc. because the equipment and software will be compatible with the airport's closed circuit television and security system. The equipment will be installed concurrently with the remodel.

At the request of the TSA, Siemens Building Technologies, Inc. provided a quote for \$29,867.53 to provide security improvements in the terminal building in space leased to the TSA. The TSA has agreed to reimburse the Airport for the improvements either in a lump-sum payment or by amortizing the improvements over the first three years of the lease. Funds are available within the current capital project budget.

Motion--  
--carried

Mayans moved that the proposal from Siemens Building Technologies, Inc. be accepted. Motion carried 7 to 0.

## AIRPORT

### **LAW ENFORCEMENT REIMBURSEMENT AGREEMENT – TRANSPORTATION SECURITY ADMINISTRATION.**

Agenda Report No. 03-0890

In response to continuing efforts to reduce the threat of terrorist activities, the Aviation and Transportation Security Act (ATSA) established the Transportation Security Administration (TSA), which is now under the direction of the Department of Homeland Security. Pursuant to the authority of the ATSA, the Under Secretary (now Administrator) is authorized to order the deployment of law enforcement personnel authorized to carry firearms at each airport security passenger-screening checkpoint to ensure passenger safety and national security. These services were previously provided by the WAA through a contract with the TSA from May 1, 2002 through May 31, 2003. At that time, services were discontinued while TSA reviewed its needs and contract requirements. TSA is now desirous of re-instituting this service.

For the 100 largest airports in the United States, the Administrator may order the deployment of additional law enforcement personnel at airport security passenger-screening checkpoint if the Administrator determines that the additional deployment is necessary to ensure passenger safety and national security. The Federal Security Director has requested that one officer be present at the Mid-Continent Terminal building checkpoint for 16 hours each day. A standard memorandum of agreement has been furnished to the WAA. The term of this initial agreement commences when signed by all parties, and continues through September 30, 2003. However, the agreement may be extended annually by written notice from the TSA through September 30, 2007. Either party may cancel the agreement by providing the other party with a 30-day written notice to cancel.

The Federal government will reimburse the Wichita Airport Authority for salaries paid by the WAA for the provision of a uniformed sworn and certified law enforcement officer at the security checkpoint. Staffing is available to meet these responsibilities utilizing a combination of regular and overtime hours, both of which will be reimbursed to the WAA up to a negotiated maximum.

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 58

Motion--  
--carried

Mayans moved that the agreement be approved and the necessary signatures be authorized. Motion carried 7 to 0.

## AIRPORT

### LICENSE AGREEMENT – TRANSPORTATION SECURITY ADMINISTRATION

Agenda Report No. 03-0891

Under the terms of the Aviation and Transportation Security Act (ATSA), the Transportation Security Administration (TSA) is required to deploy Federal security screeners, Federal security managers, Federal security personnel, and Federal law enforcement officers to conduct screening of all passengers, property, and baggage at all airports. In order to carry out this statutory mandate, it is necessary for TSA to use certain airport space and facilities defined under federal law as “necessary security checkpoints.” This license agreement grants TSA the right to use the space in the Terminal Building for this purpose.

The WAA is required to provide use of the space at no cost to TSA as a part of its obligation to comply with a security program and in recognition of the benefits that TSA’s security function provides to the Airport, passengers and others entering airport property. The WAA reserves the right to impose rental charges for space if Federal law may so permit in the future.

TSA is responsible for costs associated with its own telecommunications services, and for separately metered utilities. In addition, TSA is responsible for reimbursing the Airport for janitorial, cleaning services, and supplies as may be necessary or required in the operation and maintenance of the space utilized by TSA at the checkpoint and in the bag makeup areas. TSA will be billed for these services on a monthly basis.

Motion--  
--carried

Mayans moved that the license agreement be approved and the necessary signatures be authorized. Motion carried 7 to 0.

## AIRPORT

### AIRPORT PROGRAM GRANT APPLICATIONS

Agenda Report No. 03-0892

The Federal Aviation Administration (FAA) has requested grant applications be submitted for the purchase of two large snowplows and Runway 1L/19R rehabilitation Phase II. This will put the airport in the position to receive discretionary funding if it becomes available. The funds must be used for projects that have met eligibility requirements and have been approved by the Federal Aviation Administration. The Grant Applications must be submitted to the FAA by August 25, 2003.

Staff has prepared grant applications for these funds for submission to the Federal Aviation Administration.

The Airport is requesting that FAA discretionary funds be directed for the snowplows in the amount of \$900,000 and Runway 1L/19R rehabilitation in the amount of \$319,570. Matching funds of 10% will be applied for through the Passenger Facility Charge Program.

Motion--  
--carried

Mayans moved that the grant applications be approved and acceptance of funds and the necessary signatures be authorized. Motion carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 59

## HOUSING AGENDA

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

Inafay Grays-McClellan, Housing Member is also seated with the City Council.

## HOUSING

### HOUSING SERVICES DEPARTMENT EXPANSIONS PROJECT.

Agenda Report No. 03-0893

Mark Stanberry

Housing Services Interim Director reviewed the items.

In 1999, a reorganization/transformation study was completed for the Human Services Department, and as a result, this department was eliminated, with its staff re-assigned to other departments and the newly created Housing Services Department. Staff members involved in housing activities located at City Hall, 332 North Riverview and Greenway Manor were assigned to the Housing Services Department.

The 332 North Riverview facility, was remodeled to accommodate staff housed at City Hall. Prior to staff relocation/consolidation, the facility provided office/warehouse space for Public Housing staff. With the remodel, warehouse/workshop space was converted into office space and these functions were moved to Rounds and Porter and the Central Maintenance facility.

Greenway Manor, located at 307 North Riverview, is a public housing facility that offers 86 apartments units for elderly and disabled tenants. Housing staff assigned to the Section 8 Program office primarily on the first floor of this facility. Since 1999, the Section 8 Program has increased in size as a result of additional voucher awards from HUD. Consequently, the number of staff assigned to the program has increased because of the regulations imposed by HUD to ensure proper administration of the growing program.

Housing Services has outgrown its current locations and requires additional space to accommodate program growth and efficiency. Section 8 office staff, including Leasing Specialists and office receptionists, currently occupies the office space on the ground floor of the Greenway Manor Facility. A separate conference room is no longer available to staff because of the need to partially convert it to office space. Housing Inspection staff is currently located in a storage room on the second floor of the building, in a tenant residential area. Further, the lobby area does not properly accommodate program clients who must visit the office on occasion.

The Section 8 office space is currently in disrepair and is in need of renovation, primarily due to age. Further, the office space is showing the effects of numerous water leaks that have occurred from overflowing sinks, bathtubs and toilet stools in the tenant area directly above the office. In some cases, it became necessary for staff members to leave work, due to the unsanitary conditions that resulted from the leaking of raw sewage into the office space. Expansion of the office space is also necessary due to the aforementioned program growth that has occurred over the last few years.

When the 332 North Riverview location was remodeled to provide additional office space, the Public Housing operation lost space that was previously utilized for storage of materials and a workshop. Public Housing staff is currently using space for these functions within the Rounds and Porter building and the Central Maintenance Facility. In addition, the location of the restrooms, which accommodate staff as well as clients, is a security concern, in that the public must walk through office space in order to gain access to the restrooms.

Housing Services staff has engaged architectural services to provide a cost estimate for adding additional space at the 332 North Riverview location and the 307 North Riverview location with the intent to select the most cost-effective option for expansion. An option to utilize a Public Housing - owned building at 1631 E. 17th Street, which is currently occupied Wichita Family Services Institute,

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 60

was also considered. This option was eventually ruled out because it would have resulted in further decentralization of the Housing Services operation and staff.

Options: Two options for renovation and expansion of the Housing Services office space have been reviewed and analyzed:

- 1) Expansion of the 332 North Riverview facility to accommodate the relocation of the Section 8 Program staff. (This option also includes restoration of the Public Housing storage and workshop area that was lost as a result of the 1999 remodeling of the facility.) The estimated cost of this option would be approximately \$523,000, which would include restoration of the storage/workshop area.
- 2) Expansion of the ground floor office space within the 307 Riverview Building, which is occupied by the Section 8 Program staff. The estimated cost of this option would be \$392,000, which would also include the cost of restoration of the storage/workshop area at the 332 North Riverview location.

Housing Services staff traveled to Kansas City to review the office expansion/renovation options with Public Housing/Section 8 Administrative staff of the Kansas City regional office of the United States Department of Housing and Urban Development. Staff has also reviewed the project with the Housing Advisory Board. Following these consultations, staff recommends Option 1, expansion of the 332 N. Riverview location, including addition of the storage/workshop area, primarily for the following reasons:

Housing Services operations/staff would be centralized within one location.  
Additional office space would be provided for potential program growth and consolidation of other Community Development operations in the future.  
The security issue involving the location of the public restrooms at would be resolved.  
An improved, expanded lobby/waiting area would be created for both Public Housing and Section 8 programs.

- 5) Restoration of the storage/workshop area will result in increased operational efficiency.
- 6) Full use of the Greenway Manor location would be returned to Housing Authority tenants.

The Housing Services Department has sufficient funds from its HUD Capital Grant and Section 8 reserves to cover the cost of the proposed project.

Motion--

-- carried

Mayans moved that the staff be authorized to proceed with architectural services for Option #1, expansion of the 332 North Riverview location and solicit construction bids and construction, and the necessary signatures be authorized. Motion carried 8 to 0.

## HOUSING OCC.

### PUBLIC HOUSING OCCUPANCY.

Agenda Report No. 03-0893

The Wichita Public Housing Authority (WHA) rents publicly owned housing to low-income households at affordable rates based upon income and family size. Rent is based upon 30 percent of the household adjusted gross income. The WHA owns various single-family houses, primarily located in the inner City and four apartment complexes: Greenway Manor, McLean Manor, Rosa Gragg and Bernice Hutchinson.

Staff regularly provides an informational report regarding occupancy status of its rental units to the Housing Authority Board. This update provides the current vacancy status of the 575 Public Housing rental units including 226 elderly – disabled apartments and 349 single-family dwellings. It includes vacant units in the process of being made ready by maintenance for lease, those in the Capital Fund Program for major rehabilitation and units that have been made ready for lease.

As of August 11, 2003, 17 units are in make ready status, 0 units are in the Capital Fund Program and 10 units are ready to be leased. The total of 27 vacancies represents an occupancy rate of 95.3%.

# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 61

Property Managers leased 9 units during the month of July. It is projected that approximately 100 units will be vacated and reoccupied in 2003.

Motion--carried

Mayans moved that the Housing Authority Board report be received and filed. Motion carried 8 to 0.

## HOUSING CIP

### PUBLIC HOUSING CAPITAL IMPROVEMENTS

Agenda Report No. 03-0894

The Wichita Public Housing Authority (WHA) rents publicly owned housing to low-income households at an affordable rate based upon income and family size. Rent is based upon 30 percent of the household adjusted gross income. The WHA owns various single-family houses, primarily located in the inner City, and four apartment complexes: Greenway Manor, McLean Manor, Rosa Gragg and Bernice Hutchinson. WHA receives additional funding from Housing and Urban Development (HUD) to improve the physical condition of the public housing properties through renovation and rehabilitation.

The City of Wichita Housing Authority (WHA) administers a Capital Fund Program for all necessary capital improvements and corrections of deficiencies in the public housing rental inventory. The inventory includes 226 elderly-disabled apartments and 349 single-family dwellings. The Program is also used to upgrade the management facilities of the WHA to assure the ability of staff to serve the housing needs of low-to-moderate income families. The report covers the current status of all Capital Fund improvement projects.

The 2001 Capital Fund Grant is fully expended and has a pre-audit closure. The 2002 Capital Fund grant is in the amount of \$1,159,577. To date, HUD has not made the formula allocations for the 2003 Capital Fund Grant. The 2003 through 2006 budgeted amounts are estimated on the basis of the 2002 grant amount.

Motion --carried

Mayans moved that the Housing Authority Board report be received and filed. Motion carried 8 to 0.

## SECTION 8

### SECTION 8 MONTHLY STATISTICAL

Agenda Report No. 03-0895

The Section 8 Housing Assistance program provides rent and utility assistance through vouchers and certificates. The Section 8 Housing Choice Voucher Program provides subsidy vouchers to tenants based upon a rent set by the landlord and tenant, with an upper rent limit set by Housing and Urban Development (HUD). Portable voucher options are provided to families that have received a Housing Choice Program Voucher and have elected to utilize their rental assistance in another state or a city within Kansas.

The Shelter Plus Care Program provides rental assistance to the hard-to-house homeless families who are chronic substance abusers, mentally ill or have AIDS or AIDS related illnesses. This program consists of 102 coupons to assist eligible families that are eligible for all bedroom sizes.

The Moderate Rehabilitation program was established to upgrade substandard rental housing and provide rental assistance for lower-income families. This program consists of fifty-eight (58) units owned and operated by Helping Our People Economically (HOPE), Inc. that are eligible for studios, one, and two bedrooms units.

Section 8 works with approximately 700 landlords and is approved by HUD to administer 2,663 voucher allocations for tenants.

Housing units must be inspected prior to tenant occupancy, 120 days after occupancy and annually thereafter to ensure the landlord is maintaining the housing unit in compliance with housing standards.



# CITY COUNCIL PROCEEDINGS

JOURNAL 179

AUGUST 19, 2003

PAGE 62

Section 8 is also required to perform exit inspections to ensure no damage occurred above the customary living usage.

Following is a breakdown of assistance provided through the Section 8 Program for July 2003.

Program	Number Allocated	Number Committed	Over (Under) Committed	Annual Lease- Up	Annual Rate
Housing Choice Voucher	2366	2479	113	2479	104.8%
Shelter Plus Care	102	104	2		
Moderate Rehabilitation	58	39	(19)		
Portable Vouchers	41	41	0		
TOTAL	2567	2663	96		

Due to many variables such as voucher and certificate holders finding and leasing a property that does not require the maximum subsidy, Housing Services is able to assist additional units and remain within budget.

Motion--carried      Mayans moved that the Housing Advisory Board report be received and filed. Motion carried 8 to 0.

## **EXECUTIVE SESSION**

Motion--      Mayans moved that the City Council recess into executive session to consider consultation with legal counsel on matters privileged in the attorney-client relationship relating to pending litigation, legal advice and personnel matters of non-elected personnel, and that the City Council return from executive session in the City Council Chambers no earlier than 12:15 P.M. Motion carried 7 to 0.

--carried

RECESS      The City Council recessed at 11:20 a.m. and reconvened in the Council Chambers at 12:20 p.m.

Mayor Mayans      Mayor Mayans announced that no action was necessary as a result of the executive session.

Adjournment      The City Council meeting adjourned at 12:21 p.m.

Karen Schofield  
Deputy City Clerk